

REMARKS

Claims 1-43 are all the claims pending in the application.

A Declaration pursuant to 37 C.F.R. §1.131 is being submitted together with this response to antedate a primary reference cited against the claims of the Application. This Declaration is signed by the inventor of the instant application

I. Claim Rejections: 35 USC §103(a)

The Examiner rejected claims 1-43 under 35 USC §103(a) as allegedly being unpatentable over Silver et al. (US Pat. 7,035,393) (hereinafter “Silver”) in view of Kobashikawa et al. (US Pub. No. 2004/0186848) (hereinafter “Kobashikawa”).

The Applicant herein submits that Kobashikawa is disqualified as a valid prior art reference under 35 USC §103(a) because the invention was conceived prior to the priority date of Kobashikawa, and the Applicant was diligent in reducing the invention to practice from prior to the priority date of Kobashikawa until the filing date of the instant Application.

The Applicant is enclosing a Declaration pursuant to 37 C.F.R. §1.131 that establishes the date of conception of the invention that is the subject matter of the current Application, to be a date at least prior to the priority date of Kobashikawa.

This Declaration is accompanied by an invention disclosure and email correspondence submitting the invention disclosure to the Assignee’s counsel on a date prior to the effective date of Kobashikawa on March 21, 2003. Kobashikawa does not appear to claim priority to an earlier filed application. Documents relating to communication between the inventor, the Assignee’s

counsel and the patent attorney are also enclosed with the Declaration and establish diligence leading to the filing of the application on June 30, 2003.

Accordingly, Kobashikawa may not be properly used as a prior art reference against the claims of the instant Application. Accordingly, the Applicant requests withdrawal of the rejections of the claims under 35 USC §103(a) based on Kobashikawa.

As the Examiner admits that Silver alone fails to clearly teach the features of the pending claims, the Applicant submits that the rejection of claims 1-43 under 35 USC §103(a) cannot be maintained. Therefore, the Applicant respectfully requests the withdrawal of the rejection under 35 USC §103(a) and the allowance of claims 1-43.

II. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Scott H. Davison/

SUGHRUE MION, PLLC
Telephone: (619) 238-3545
Facsimile: (619) 238-4931

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Scott H. Davison
Registration No. 52,800

Date: April 4, 2008